

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:) Before the Examiner
)
 William F. McKay) Unassigned
)
 Serial No. Unassigned) Group Art Unit 3738
 (New Application))
) August 5, 2003
 Filed August 5, 2003)
)
OSTEOGENIC FUSION DEVICE)

I hereby certify that this correspondence is being deposited with the United States Postal Service in Express Mail Envelope No. EL 983134736 US addressed to the Commissioner for Patents P.O. Box 1450, Alexandria, VA 22313-1450 on

August 5, 2003

(Date of Deposit)

Cheryl Kalugyer

Name of Registered Representative

Signature

August 5, 2003

Date of Signature

INFORMATION DISCLOSURE STATEMENT

Honorable Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

Sir:

Pursuant to the provisions of 37 CFR 1.56, 1.97 and 1.98, Applicant requests consideration of the references listed on attached form PTO-1449 and/or the additional information identified below in paragraph 3. A legible copy of each reference listed on form PTO-1449 is enclosed, except a copy is not provided for each reference previously cited by or submitted to the Patent Office in prior parent application Serial No. 09/581,335.

1a. ☒ This Information Disclosure Statement is submitted:

within three months of the filing date (or of entry into the National Stage) of the above-entitled application (other than a continued prosecution application), **or**

before the mailing date of the first Office Action on the merits,

and thus no certification and/or fee is required.

1b. ☐ This Information Disclosure Statement is submitted

after the events of above paragraph 1a and prior to the mailing date of a final Office Action or Notice of Allowance, and thus:

(1) ☐ the certification of paragraph 2 below is provided, **or**

(2) ☐ a fee of \$_____ (set forth in 37 CFR §1.17(p)) is enclosed.

1c. ☐ This Information Disclosure Statement is submitted:

after the mailing date of a final Office Action or Notice of Allowance and prior to payment of the issue fee, and thus:

the certification of paragraph 2 below is provided, and

a fee of \$_____ (set forth in 37 CFR §1.17(p)) is enclosed.

2. It is hereby certified

a. ☐ that each item of information contained in this Information Disclosure Statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the information disclosure statement, or

b. ☐ that no item of information contained in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing the certification after making reasonable inquiry, no item of information contained in this Information Disclosure Statement was known to any individual designated in § 1.56(c) more than three months prior to the filing of the Information Disclosure Statement.

c. ☐ A copy of a dated communication from a foreign patent office which clearly shows the statement is being submitted within three (3) months of the date on the communication is enclosed.

3. ☐ Consideration of the following additional information (including any copending or abandoned U.S. application, prior uses and/or sales, etc.) is requested.

4. For each non-English language reference listed on the attached form PTO-1449, reference is made to:

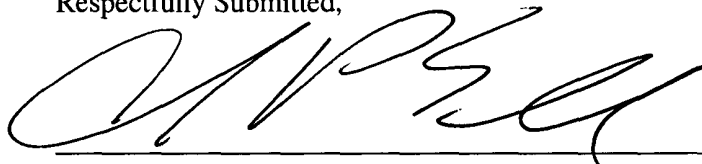
a. ☐ an English language translation submitted herewith,

- b. ☐ a foreign patent office search report (in the English language) submitted herewith,
- c. ☐ an English language translation of a foreign patent office search report submitted herewith,
- d. ☐ the concise explanation contained in the specification of the present application at page^s _____,
- e. ☐ the concise explanation set forth in the attached English language abstract,
- f. ☐ a copy of a related patent publication (in the English language) submitted herewith,
- g. ☐ the concise explanation set forth below:

The filing of this Information Disclosure Statement shall not be construed as an admission that the information cited is, or is considered to be, material to patentability as defined in §1.56(b).

It is believed that no additional fees are required. Should any other fee be required, however, please charge such fee to Deposit Account No. 23-3030, but not to include any payment of issue fees.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'CPS', is written over a horizontal line.

Charles P. Schmal, Reg. No. 45,082
Woodard, Emhardt, Moriarty, McNett & Henry LLP
Bank One Center/Tower
111 Monument Circle, Suite 3700
Indianapolis, Indiana 46204-5137
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Substitute for form 1449A/PTO INFORMATION DISCLOSURE STATEMENT BY APPLICANT <i>(use as many sheets as necessary)</i>			Complete if Known		
			Application Number	Unassigned (New Application)	
			Filing Date	August 5, 2003	
			First Named Inventor	William F. McKay	
			Group Art Unit	3738	
			Examiner Name	Unassigned	
Sheet	1	of	3	Attorney Docket Number	4002.3365

U.S. PATENT DOCUMENTS					
Examiner Initials*	Cite No. ¹	Document Number	Publication Date MM-DD-YYYY	Name of Patentee or Application of Cited Document	Pages, Columns, Lines where Relevant Passages or Relevant Figures Appear
		Number-Kind Code ² (if known)			
		3,867,728	02-25-1975	Stubstad	
		4,375,810	03-08-1983	Belykh	
		4,501,269	02-26-1985	Bagby	
		4,863,476	09-05-1989	Shepperd	
		4,878,915	11-07-1989	Brantigan	
		4,919,666	04-24-1990	Buchhorn	
		4,961,740	10-09-1990	Ray	
		5,015,247	05-14-1991	Michelson	
		5,055,104	10-08-1991	Ray	
		5,141,510	08-25-1992	Takagi	
		5,207,710	05-04-1993	Chu	
		5,219,363	06-15-1993	Crowninshield	
		5,258,029	11-02-1993	Chu	
		5,298,254	03-29-1994	Prewett	
		5,336,223	08-09-1994	Rogers	
		5,348,026	09-20-1994	Davidson	
		5,390,683	02-21-1995	Pisharodi	
		5,397,364	03-14-1995	Kozak	

Examiner Initials*	Cite No. ¹	Foreign Patent Document	Publication Date MM-DD-YYYY	Name of Patentee or Application of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T ⁴
		Country Code ³ -Number ⁴ -Kind Code ⁵ (if known)				
		DE 19630256	07-1996	Ulrich et al.		
		DE 4409836A	09-28-1995			
		EP 0732093A	09-18-1996			
		EP 0577179A	01-05-1994			
		FR 2712486A	05-24-1995			
		WO 91/11148	08-08-1991			
		WO 91/06266A	05-16-1991			
		WO 92/14423	09-03-1992			

Examiner Signature		Date Considered	
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EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

¹ Applicant's unique citation designation number (optional). ² See Kinds Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. ³ Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). ⁴ For Japanese patent documents, the indication of the year of the reign of the emperor must precede the serial number of the patent document. ⁵ Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. ⁶ Applicant is to place a check mark here if English language Translation is attached.

Burden Hour Statement: This form is estimated to take 2.0 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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				Attorney Docket Number	4002.3365

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		Number-Kind Code ² (If known)			
		5,423,816	06-13-1995	Lin	
		5,423,817	06-13-1995	Lin	
		5,433,718	07-18-1995	Brinker	
		5,443,515	08-22-1995	Cohen	
		5,520,923	05-28-1996	Tjia	
		5,571,184	11-05-1996	DeSatnick	
		5,584,877	12-17-1996	Miyake	
		5,584,880	12-17-1996	Martinez	
		5,618,286	04-08-1997	Brinker	
		5,645,598	07-08-1997	Brosnahan	
		5,676,699	10-14-1997	Gogolewski	
		5,693,100	12-02-1997	Pisharodi	
		5,766,253	06-16-1998	Brosnahan	
		6,146,420	11-14-2000	McKay	
		6,306,170	10-23-2001	Ray	

Examiner Initials*	Cite No. ¹	Foreign Patent Document	Publication Date MM-DD-YYYY	Name of Patentee or Application of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T ⁶
		Country Code ² -Number ⁴ -Kind Code ⁵ (if known)				
		WO 94/07441	04-01-1994			
		WO 95/17861A	07-06-1995			
		WO 95/25485A	09-28-1995			
		WO 95/00082	01-05-1995			
		WO 96/40014A	12-19-1996			
		WO 97/23174A	07-03-1997			
		WO 98/04217A	02-05-1998			

Examiner Signature		Date Considered	
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EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

¹ Applicant's unique citation designation number (optional). ² See Kinds Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. ³ Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). ⁴ For Japanese patent documents, the indication of the year of the reign of the emperor must precede the serial number of the patent document. ⁵ Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. ⁶ Applicant is to place a check mark here if English language Translation is attached.

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